

February 14, 2014

Ms. Hilary Papendick  
California Coastal Commission  
c/o Sea Level Rise Work Group  
45 Fremont Street, Suite 2000  
San Francisco, CA 94105  
E-mail: [SLRGuidanceDocument@coastal.ca.gov](mailto:SLRGuidanceDocument@coastal.ca.gov)

Re: California Coastal Commission  
Draft Sea Level Rise (SLR) Policy Guidance  
Response to Administrative Draft

Dear Ms. Papendick:

Thank you for the opportunity to review and comment on the California Coastal Commission Draft Sea Level Rise Policy Guidance ("Guidance"). Like many coastal cities up and down California, the City of Ventura has a keen interest in the potential for detrimental impacts due to sea level rise on natural amenities, public infrastructure and private property owners in our community. We recognize the significant step the Coastal Commission (CCC) is taking to draft policy guidance on this important topic, but have several concerns as to the course taken in doing so. The City of Ventura would like to highlight several issues of concern that may serve as obstacles to local jurisdiction implementation of sea level rise and which we would request be addressed by the CCC.

The Draft Sea Level Guidance is issued as an advisory guidance document to consider when affected coastal jurisdictions update or amend their Local Coastal Plans (LCP) or submit Coastal Development Permits (CDP) for approval. While the Guidance does not mandate that local jurisdictions initiate an update of their LCPs for SLR, nor stipulate that use of the Guidance by local jurisdictions is mandatory, reference is made by the CCC as to compliance of the document with the agency's mandates via the California Coastal Act (CCA) and that it will serve as the basis of Coastal Commission review of local LCPs and CDP projects. Furthermore, the Guidance states the Coastal Commission will continue an existing practice of submitting sea level rise analysis requirements on LCPA and CDP applications. The Sondermann Ring Partners mixed-use project at the Ventura Harbor and the Ventura Downtown Specific Plan LCPAs have been two such projects. Thus, the Guidance serves as more than an advisory document where its recommendations will serve as the basis for an ongoing practice of applying sea level rise analysis, conditions and mitigation prior to receiving certification of LCP amendments and CDP projects.



Unfortunately, the Guidance does not adequately address some of the more common obstacles to implementing an additional requirement on local planning processes and administering such requirements to local jurisdictions may prove to be premature without additional measures at the State level.

**Local Unfunded Mandate** - Without a costly comprehensive certified LCP update to address such matters, CCC administration of the Guidance has the potential to penalize both LCP amendments and CDPs on a project-by-project basis. The impact of performing required sea level rise analysis will prove costly to local jurisdiction staff resources and project applicants. Furthermore, for the most part, local jurisdiction staffing lacks the expertise to perform such analysis without retaining outside experts at additional cost, rendering the Guidance an unfunded mandate to local jurisdictions. The Guidance states that the CCC will seek competitive grant funding for local jurisdictions to perform sea level rise planning as part of its next steps. However, without a budgeted stream of funding to local jurisdictions to do so, it constitutes a premature requirement with which they may not be able to comply. As of this writing, the Governor's budget proposal excludes the \$3 million previously allocated to the CCC to provide assistance and review to local jurisdictions for LCP updates. Without the prior allocation to CCC, the ability of the agency itself to provide effective assistance to local jurisdictions will be comprised.

As such, the Guidance, in particular the 'Next Steps' program should come attached with a guaranteed funding source and assistance resources to local jurisdictions to implement the Guidance and eliminate the fiscal obstacle to LCP updates.

**Local Community Support** – In addition to the cost of preparing a LCP update specifically for purposes of incorporating SLR planning, another factor that may play into the ability of some jurisdictions to implement the Guidance is simple lack of community support to pursue such an effort. Without approval at the local level, an LCP update would not be forthcoming to the CCC for certification. Given the cost of plan preparation, uncertainty of the CCC certification process and potential impact to private property owners from many of the recommended sea level rise mitigation measures, jurisdictions lacking proactive community support will be reluctant to do so in the absence of clear signals that a sea level rise policy proposal would be able to pass the local approval process let alone the uncertainty typical of review and actions by the CCC. Furthermore, the Guidance lacks requisite analytic anchors and guarantees that certified plans will remain unchallenged on the basis of their SLR analysis as subsequent projects are submitted for review and approval.

At a minimum, the Guidance should specifically address special issues of certification that arise where the base recommended science will be reassessed over time and propose a program that will ensure project review consistency for local projects. For example, the SLR standard should be "locked in" for a time period by the LCP updates and CDP filing dates, regardless of an extended CCC review and approval process.



**Legal Constraints** – Inherent in local land use regulation is a framework of legal decisions that present constraints to local authority. Many of the policy recommendations put forth as measures to be taken to protect communities from sea level rise such as rezoning, rolling easements, and transfers of development rights convey legal liability to local jurisdictions for encroachment on private property rights, long established by the courts. This is a particular obstacle in communities with long established development along their entire coastal zone and for whom projects will not mainly comprise 'new' development. As such, these measures present an obstacle to the feasibility of sea level rise planning at the local level.

To the extent the Guidance puts forth these regulatory recommendations it should also include a discussion of regulatory and legislative solutions at the state level that will remove obstacles such as liability for takings which it specifically excludes. Until such obstacles are discussed in the Guidance and a program of legislative and regulatory measures set in place on behalf of local jurisdictions, these measures are legally infeasible and should be stricken from required recommendations on LCP updates and CDPs.

**Ambiguity Regarding Adequacy of Analysis** - The Guidance recommends the use of 'Sea Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future' by the National Research Council (NRC, 2012) as the best available science to be used when assessing future sea level rise for local areas. Additionally, while recommending the NRC report as the best available science, the CCC also puts forward other resources to consult, including the Coastal Resilience Ventura effort, in which the City of Ventura is a participant. The Guidance also states that the science will be reassessed at regular intervals of approximately 5 years for adequacy. What the CCC does not address is the degree to which reliance upon this study or other recommended resources in the Guidance will constitute sufficient analysis by local jurisdictions when conducting recommended sea level rise studies and thus ensure a level of predictability for local jurisdictions and applicants in the project review process.

Furthermore, the recommended SLR analysis approximates the life of a proposed project of upwards for a minimum of 75 or 100 years, while the planning horizon for most local general plans and LCPs is a 20 to 25 years. Such an extension of the planning horizon for a LCPA or CDP would present difficulties in instances where the LCP is a portion of a local general plan and the analysis in its accompanying EIR.

The Guidance should include minimum technical requirements by which a local jurisdiction can be assured of adequacy of required sea level rise projections and impact analysis and the time period within which approved data sources are considered valid by the CCC. If other recommended sources are also adequate for the required analysis, such as existing local studies, CCC should include a pre-certification of the adequacy of those sources by which local jurisdictions are offered assurances to avoid multiple revisions to studies and costly delays to project reviews.


**Issues of Local Concern** – Closely associated with the issue of planning horizon in local comprehensive land use plans is public infrastructure planning. Any updates to the LCP would also be expected to occur with a similar planning horizon to the local general plan, and would be expected to be eventually incorporated therein. These comprehensive planning efforts would also necessarily include an analysis of required infrastructure and subsequent adjustments to the local Capital Improvement Program on the same timeline. As a local jurisdiction with one of seven wastewater treatment plants along the Pacific coast outside the San Francisco Bay, the City of Ventura is concerned that the requirement to perform a regional risk assessment to the year 2100 does not accommodate the functional limits of local comprehensive planning time horizons.

The Guidance should allow for an adaptive management approach to public facilities (as well as some development project approvals) such that consistency with local planning horizons can be considered for them.

The City of Ventura also benefits from the use of seven existing groins along its coastline to manage beach erosion. Where the Guidance document states that it would like to avoid perpetuation of shoreline armoring, the City is concerned that maintenance by the managing agency of these structures will be discouraged and may eventually be disallowed. The Guidance document should provide criteria by which such measures would be taken.

Once again, thank you for the opportunity to provide comments on the Draft SLR Guidance document and we look forward to continued dialogue with the CC to address the issue of SLR in local planning efforts.

Sincerely,



Dave Ward, AICP  
Planning Manager, City of Ventura